

DECLARATION

As a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **APERTURE PLATE AND METHODS FOR ITS CONSTRUCTION AND USE** the specification of which is attached hereto or X was filed on September 9, 1999 as Application No. 09/392,180 and was amended on _____ (if applicable).

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56. I claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

| Country | Application No. | Date of Filing | Priority Claimed Under 35 USC 119 |
|---------|-----------------|----------------|--------------------------------------|
| | | | |

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

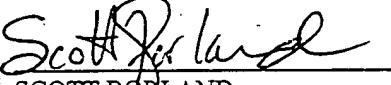
| Application No. | Filing Date |
|-----------------|-------------|
| | |

I claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| Application No. | Date of Filing | Status |
|-----------------|----------------|--------|
| | | |

| | | | |
|--------------------------|---|---|--|
| Full Name of Inventor 1: | Last Name: BORLAND | First Name: SCOTT | Middle Name or Initial: |
| Residence & Citizenship: | City: San Mateo | State/Foreign Country: California | Country of Citizenship: United States |
| Post Office Address: | Post Office Address: 25 McAker Court, #135 | City: San Mateo | State/Country: California Postal Code: 94403 |
| Full Name of Inventor 2: | Last Name: BAKER | First Name: GARY | Middle Name or Initial: |
| Residence & Citizenship: | City: Mountain View | State/Foreign Country: California | Country of Citizenship: United States |
| Post Office Address: | Post Office Address: 1375 Montecito Avenue, #52 | City: Mountain View | State/Country: California Postal Code: 94043 |

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

| Signature of Inventor 1 | Signature of Inventor 2 |
|---|---|
|  SCOTT BORLAND |  GARY BAKER |
| Date 10/22/99 | Date 11/3/99 |

DE 7004375 v1

POWER OF ATTORNEY BY ASSIGNEE

AEROGEN, INC. is the Assignee of the invention entitled: APERTURE PLATE AND METHODS FOR ITS CONSTRUCTION AND USE, the specification of which _____ is attached hereto or X was filed on September 9, 1999 as Application Serial No. 09/392,180.

Assignee hereby appoints the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Lesley S. Craig, Reg. No. 26,578
Darin J. Gibby, Reg. No. 38,464
Chad S. Hilyard, Reg. No. 40,647
Roger T. Barrett, Reg. No. 41,599
William F. Vobach, Reg. No. 39,411
Scott L. Ausenhus, Reg. No. 42,271
Thomas D. Franklin, Reg. No. 43,616

| | |
|--|---|
| Send Correspondence to: | Direct Telephone Calls to: (Name, reg. no., tele. no.) |
| Darin J. Gibby TOWNSEND and TOWNSEND and CREW LLP Two Embarcadero Center, 8th Floor San Francisco, CA 94111-3834 | Darin J. Gibby Reg. No.: 38,464 303/571-4000 |

AEROGEN, INC.

Date: Nov. 17 1999

By: Yehuda Ivri
(Signature)

Name: Yehuda Ivri
Title: Chief Technical Officer

CERTIFICATE UNDER 37 C.F.R. § 3.73(b)

Applicant: Scott Borland and Gary Baker

Application No.: 09/392,180

Filed: September 9, 1999

For: APERTURE PLATE AND METHODS FOR ITS CONSTRUCTION AND USE

AEROGEN, INC., a Delaware corporation

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

certifies that it is assignee of the patent application identified above by virtue of either:

A. An assignment from the inventor(s) of the patent application identified above for which a copy thereof is attached.

OR

B. A chain of title from the inventor(s), of the patent application identified above, to the current assignee as shown below:

1. From: _____ To: _____

The document was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

Additional documents in the chain of title are listed on a supplemental sheet.

Copies of assignments or other documents in the chain of title are attached.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: October 22, 1999

Name: Yehuda Ivri

Title: Chief Technical Officer

Signature: [Signature]

DE 7006184 v1

ASSIGNMENT OF PATENT APPLICATION

JOINT

WHEREAS, Scott Borland, of 25 McAker Court, #135, San Mateo, CA 94403, Gary Baker, of 1375 Montecito Avenue, #52, Mountain View, CA 94043, hereinafter referred to as "Assignors," are the inventors of the invention described and set forth in the below-identified application for United States Letters Patent:

Title of Invention: APERTURE PLATE AND METHODS FOR ITS CONSTRUCTION AND USE

Filing Date: September 9, 1999

Application No.: 09/392,180 ; and

WHEREAS, AEROGEN, INC., a corporation of the state of Delaware, located at 1310 Orleans Drive, Sunnyvale, CA, 94089, hereinafter referred to as "ASSIGNEE," is desirous of acquiring an interest in the invention and application and in any U.S. Letters Patent and Registrations which may be granted on the same;

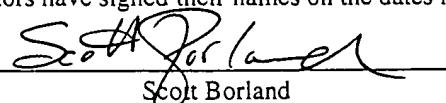
For good and valuable consideration, receipt of which is hereby acknowledged by Assignors, Assignors have assigned, and by these presents do assign to Assignee all right, title and interest in and to the invention and application and to all foreign counterparts (including patent, utility model and industrial designs), and in and to any Letters Patent and Registrations which may hereafter be granted on the same in the United States and all countries throughout the world, and to claim the priority from the application as provided by the Paris Convention. The right, title and interest is to be held and enjoyed by Assignee and Assignee's successors and assigns as fully and exclusively as it would have been held and enjoyed by Assignors had this Assignment not been made, for the full term of any Letters Patent and Registrations which may be granted thereon, or of any division, renewal, continuation in whole or in part, substitution, conversion, reissue, prolongation or extension thereof.

Assignors further agree that they will, without charge to Assignee, but at Assignee's expense, (a) cooperate with Assignee in the prosecution of U.S. Patent applications and foreign counterparts on the invention and any improvements, (b) execute, verify, acknowledge and deliver all such further papers, including patent applications and instruments of transfer, and (c) perform such other acts as Assignee lawfully may request to obtain or maintain Letters Patent and Registrations for the invention and improvements in any and all countries, and to vest title thereto in Assignee, or Assignee's successors and assigns.

Assignors hereby authorize and request Townsend and Townsend and Crew LLP, Two Embarcadero Center, 8th Floor, San Francisco, CA 94111-3834, to insert herein above the application number and filing date of said application when known.

IN TESTIMONY WHEREOF, Assignors have signed their names on the dates indicated.

Dated: 11/3/99

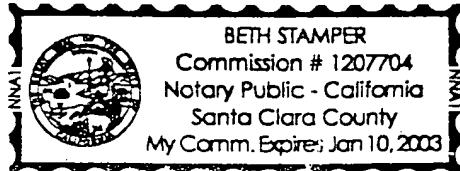

Scott Borland

STATE OF CALIFORNIA)
)
 ss.
COUNTY OF)

Assignment
Attorney Docket No.: 16770-002800US
Page 2

On November 3, 1999, before me, Beth STAMPER, Notary Public, personally appeared Scott Borland, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Beth Stamper
NOTARY PUBLIC

My Commission Expires: Jan 10, 2003

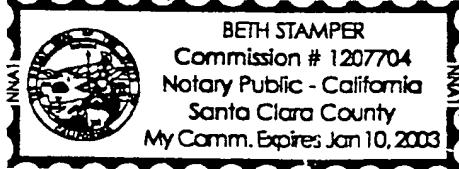
Dated: 11/3/99

Gary Baker
Gary Baker

STATE OF CALIFORNIA)
)
) ss.
COUNTY OF)

On November 3, 1999, before me, Beth STAMPER, Notary Public, personally appeared Gary Baker, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Beth Stamper
NOTARY PUBLIC

My Commission Expires: Jan 10, 2003

FEBRUARY 28, 2000



TOWNSEND AND TOWNSEND AND CREW
DARIN J. GIBBY
TWO EMBARCADERO CENTER, 8TH FLOOR
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OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
DJS



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Townsend and Townsend
and Crew

MAR 08 2000

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

Received

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 11/29/1999

REEL/FRAME: 010408/0008
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNEE'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNEE:
BORLAND, SCOTT

DOC DATE: 11/03/1999

ASSIGNEE:
BAKER, GARY

DOC DATE: 11/03/1999

ASSIGNEE:
AEROGEN, INC.
1310 ORLEANS DRIVE
SUNNYVALE, CALIFORNIA 94089

SERIAL NUMBER: 09392180
PATENT NUMBER:

FILING DATE: 09/09/1999
ISSUE DATE:

LENELL MACKALL, PARALEGAL
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS